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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 10/005,795  
Filing Date: November 08, 2001  
Appellant(s): KING ET AL.

\_\_\_\_\_  
Gary Sanford, Reg. No. 35,689  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 10/28/09 appealing from the Office action mailed 3/6/09.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is incorrect. A correct statement of the status of the claims is as follows:

Claims 1-45 are pending.

This appeal involves claim 1-18, 27-29, 30-35, and 44-45.

Claims 19, 20, 22-26 and 36-43 are withdrawn from consideration as not directed to the elected invention.

**(4) Status of Amendments After Final**

No amendment after final has been filed.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

US 6,141,611 A	MACKEY et al.	10-2000
US-2002/0002475 A1	FREEDMAN et al.	01-2002

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-18, 27-29, 30-35 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Freedman et al (US 2002/0002475) in view of Mackey et al (US 6,141,611).

[claim 1] Freedman teaches a method of facilitating the claims and repair process for an insured person, comprising:

- collecting accident information involving a vehicle that gets damaged (Figure 1), wherein said collecting accident information includes employing a mapping system to map a surface of a vehicle to generate damage information (par. 119, 128-130, 132-132-135;

- communicating the accident information, including the damage information, to a remote site; (figure 1—120; par. 128-130) and
- posting the accident information, including the damage information, on behalf of the insured person for purposes of selecting repair and supplier parties. (figure 1—120, 122; par 128-133)

Freedman, however, does not expressly disclose capturing information at the “at birth of an accident.” Mackey discloses a method for electronically collecting data at the accident scene, transmitting and storing the details of an accident (col. 2, lines 15-29). At the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to modify the system and method of Freedman with the teaching of Mackey to include equipment to capture data at the scene of the accident. As suggested by Mackey, one would have been motivated to include this feature to ensure that the accident data is readily available for evaluation by authorized parties, such as insurance adjusters, risk management and loss control entities. (col. 1, lines 15-17)

[claim 2] Freedman discloses the method of claim 1, further comprising: providing electronic data collection equipment; and said collecting accident information comprising using the electronic data collection equipment to retrieve and record accident information. (par. 131-132; 141)

[claim 3] Freedman discloses the method of claim 2, the electronic data collection equipment comprising mobile electronic data collection equipment, wherein said

collecting accident information comprises retrieving and recording accident information at the birth of the accident. (Figure 1; 120-122; 134-135 video)

[claim 4] Freedman discloses the method of claim 3, further comprising: communicating claim information from the remote site to the insured person via the mobile electronic data collection equipment. (par. 120-122; 134-135 video; 141-143- policyholders receive claim status data )

[claim 5] Freedman discloses the method of claim 4, wherein the claim information includes a claim number. (par. 117, 163-165)

[claim 6] Freedman discloses the method of claim 4, further comprising: making a preliminary damage estimation; and providing a preliminary claims estimate to the insured person via the mobile electronic data collection equipment. (Figure 1-estimate step; 127-128; par. 131-135; 141-143-- Accident data is collected via the mobile electronic data collection equipment (par. 119-122; 132-135 video) is used for damage estimate; claim data retrieved by insured at web portal )

[claim 7] Freedman discloses the method of claim 3, wherein said providing electronic data collection equipment comprises distributing mobile electronic data collection equipment to insured persons. (Figure 1; 120-122; 134-135 video)

[claim 8] Freedman discloses The method of claim 3, wherein said providing electronic data collection equipment comprises distributing mobile electronic data collection equipment to tow truck drivers or other third parties. (par. 132-135)

[Claim 9] Freedman teaches the method of claim 3, the mobile electronic data collection equipment incorporating a digital camera, wherein said collecting accident information comprises taking digital images. (par. 132-135)

[claim 10] Freedman teaches the method of claim 9, the mobile electronic data collection equipment further incorporating wireless communications, wherein said electronically communicating the accident information comprises wirelessly communicating digital images. (par. 132-135; 196)

[claims 11-12] Freedman discloses the method of claim 9, wherein said taking digital images includes taking digital images of damaged vehicles and images associated with the scene of the accident including concomitant environmental conditions or images of injured persons. (Figure 1; par. 129; 132-135)

[claims 13] Freedman discloses The method of claim 3, the mobile electronic data collection equipment incorporating a bar code scanner, wherein said collecting accident information comprises scanning a bar coded vehicle identification number of a damaged vehicle. (par. 119, 125-126)

[claim 14] Freedman teaches The method of claim 3, the mobile electronic data collection equipment incorporating wireless communications, wherein said electronically communicating the accident information comprises wirelessly transmitting the accident information. (par. 119)

[claim 15] Freedman discloses the method of claim 3, the mobile electronic data collection equipment configured to store the accident information and for interfacing a PC dispatch system coupled to a communication network, further comprising (Figure 3):

providing a PC dispatch system at a facility; retrieving the insured person's damaged vehicle and the mobile electronic data collection equipment at the accident site and delivering to the facility; coupling the mobile electronic data collection equipment to the PC dispatch system; and the PC dispatch system retrieving the accident information from the mobile electronic data collection equipment and electronically communicating the accident information via the communication network. (Figure 1; par. 127-135) [claims 16-17] Freedman discloses the method of claim 2, the electronic data collection equipment comprising a mapping system with electronic communication capability, wherein said collecting accident information comprises mapping the damaged vehicle. (Figure 1 (120-127); par.125; 129)

[claim 18] Freedman discloses the method of claim 16, the electronic communication capability comprising wireless communications, wherein said electronically communicating the accident information comprises wirelessly transmitting mapped information via the communication network. (Figures 1,3; par. 125, 196)

[claims 27-28] Freedman discloses a method further comprising: dispatching a tow truck to retrieve and deliver a replacement vehicle to the accident site; and retrieving, by the dispatched tow truck, the damaged vehicle or replacement vehicle (par. 132-136, 141—discloses dispatching a tow truck to retrieve a truck)

[claim 29] Freedman discloses the method of claim 1, further comprising:



providing a computer with estimation software at the remote site to assist and facilitate assessment of the accident information to identify a claims estimate by a claims adjuster. (Fig. 1; par. 129-130)

[claim 30] Freedman teaches the method of claim 1, further comprising: providing a master database incorporating aggregate damage and accident information of other accidents; (par. 124-130) and providing a claims wizard at the remote site that operates as an expert system which uses new accident information and the aggregate damage and accident information to assist in damage assessment. (par. 128, 130-131, 141-143)

[Claims 31-32] Freedman discloses the method of claim 30, further comprising employing, by the claims wizard, similar-type vehicle information or accident information from the master database. (Figure 3; par. 183-195; par. 226)

[claim 33] Freedman teaches the method of claim 30, further comprising: providing wireless mobile electronic data collection equipment for availability at accident sites, wherein said collecting accident information comprises using the mobile electronic data collection equipment to retrieve accident information and to transmit the accident information to the remote site;(125, 129-130) and the claims wizard interactively cooperating with the wireless mobile electronic data collection equipment regarding particular data collection parameters. (Figure 3; par. 183-195; par. 226)

[claim 34] Freedman discloses the method of claim 33, further comprising:

the claims wizard transmitting instructions to the wireless mobile electronic data collection equipment to facilitate collecting any additional information regarding the accident to facilitate damage assessment. (par. 141-144, 146)

[claim 35] Freedman discloses the method of claim 33, further comprising: the wireless mobile electronic data collection equipment including a digital camera for wirelessly communicating digital images to the remote site; (125, 132-135; 196) and the claims wizard transmitting instructions to the wireless mobile electronic data collection equipment for taking digital images of certain parts of the damaged vehicle. (par. 141-144, 146)

[claim 44] Freedman discloses The method of claim 1, further posting claim activity and repair process for enabling the insured person to monitor progress. (par. 141)

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claim 45 is rejected under 35 U.S.C. 102(e) as being anticipated by Freedman.

[claim 45] Freedman discloses a claims process method, comprising: employing a mapping system to map a surface of vehicle to generate damage information (128-129); and using the damage information in an attempt to assess complete vehicle damages for claim purposes.(par. 125, 128-130—Examiner interprets video tapes of damage to assess the cost of damage to be the mapping of damage.)

#### **(10) Response to Argument**

(A) Appellant argues that Freedman in view of Mackey does not disclose employing a "mapping system to map the surface of the vehicle to generate damage information as recited in claim 1. In particular, Appellant argues that the required "mapping system" includes features that the cited video recorder does not include.

In response, it is respectfully submitted that the term "mapping system" as recited in claim 1, does not require laser scanning or lack of human intervention.

Regarding applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the mapping system's ability to apply mathematical reference to the surface area) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

To underscore the point that the Appellant did not intend to narrow the scope of the term "mapping system" to include only laser mapping systems in claim 1,

dependent claim 17 recites **"wherein the mapping system comprises a laser mapping system."**

Moreover, the video equipment described in the Freedman reference (par. 119-121) allows damage on one point of the car to be captured to with respect to other areas of the car . Therefore, the prior art addresses the current claim limitations.

(B) Appellant argues that Freedman in view of Mackey does not disclose communicating claim information to the insured person via the mobile electronic data collection equipment as recited in claim 4.

In response, the Examiner respectfully disagrees with the applicant's interpretation of the reference. Accident data collected via the mobile electronic data collection equipment (par. 119-122; 132-135 video) is for claims processing and is retrieved by policyholders/insureds at the web portal ( par. 141-143) Also adjusters will take full-motion digital videos (with voice commentary) of damaged vehicles, transfer the video and voice data to the Claims Division via the Company's web portal.

The Examiner acknowledges that Freedman reference did not disclose the "at the birth of the accident" feature. However, this limitation was addressed in the independent claim with the Mackey reference.

Mackey discloses a method for electronically collecting data at the accident scene, transmitting and storing the details of an accident (col. 2, lines 15-29). At the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to modify the system and method of Freedman with the teaching of Mackey to

include equipment to capture data at the scene of the accident. As suggested by Mackey, one would have been motivated to include this feature to ensure that the accident data is readily available for evaluation by authorized parties, such as insurance adjusters, risk management and loss control entities. (col. 1, lines 15-17).

(C ) Appellant argues that the prior art does not disclose making a preliminary damage estimate and providing a preliminary claims estimate to the insured person via the mobile electronic data collection equipment, as recited in claim 6

Again, the Examiner respectfully disagrees with the applicant's interpretation of the reference. Accident data is collected via the mobile electronic data collection equipment (par. 119-122; 132-135 video) is used for claims processing. In particular, the providers use video equipment to record damage and estimate the cost of repair for the claim (par. 127-128). Data regarding claim damage and claims processing is retrieved by policyholders/insureds at the web portal. (par. 141-143)

The Examiner acknowledges that Freedman did not disclose the "at the birth of the accident" feature. However, this limitation was addressed in the independent claim by the Mackey reference.

This combination of references was applied to address the limitations of claim 6.

(D) Appellant argues that Freedman in view of Mackey does not disclose a mapping system with electronic communication ability, as required by claim 16-18. In particular,

the applicant argues that the mapping of a solid object (e.g. laser scanning) requires the application of mathematical reference points.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., laser scanning; generation of mathematical reference points; further analysis without human intervention) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Again it is noted that the mapping system does not require laser scanning or lack of human intervention. (It is further noted that not until dependent claim 17 does applicant recite a "laser mapping system.") Moreover, none of the mathematical functionality is ever recited in the claim language.

Furthermore, the video equipment described in the Freedman reference (par. 119-121) allows damage on one point of the car to be captured to with respect to other areas of the car . Freedman further discloses electronic communication. Therefore, the prior art addresses the current claim limitations.

(E) Appellant argues that the prior art does not disclose "dispatching a tow truck to retrieve and deliver a repaired vehicle to the insured person; and retrieving, by the dispatched tow truck, the replacement vehicle," as required by claim 27-28.

Freedman discloses dispatching a tow truck and retrieving a vehicle. (par. 132-136, 141). In response to applicant's argument that it is "not described for the purpose of delivering a repaired vehicle to the insured and retrieving the replacement vehicle", a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

(F) Appellant argues that Freedman does not disclose providing a claims wizard and using aggregate damage to assist in damage assessment, as required by claims 30-35.

In response, it is noted that the current claim language provides no distinct definition of a "claims wizard." Furthermore, the claim language states and "providing a master database..." and "providing a claims wizard....". The step of "providing" does not clearly describe what action(s) is/are being performed. "Providing" means to make available

Moreover, Freedman discloses providing a claims wizard, providing a master database and using aggregate to assist in damage assessment. (par. 128, 130-131, 141-143) Users include insurers, adjusters, and insured, who can use the web portal to access claim status data, report claims, inputting information on online forms and performing a plurality of functions through the Claims Division. (i.e. a claims wizard)

(G) Appellant argues that Freedman does not disclose a mapping system and is not capable of capturing data as required in claim 45.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., laser scanning; generation of mathematical reference points; further analysis without human intervention) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

The claimed mapping system does not require laser scanning or lack of human intervention. In fact, applicant specifically states that "the present invention is not limited to the particular embodiments as shown and described in the application as filed..." and describes the laser mapping system as one embodiment of the present invention. (page 5, lines 24-27 of the Brief ). Moreover, none of the mathematical functionality is ever recited in the claim language.

Furthermore, the video equipment described in the Freedman reference (par. 119-121) allows damage on one point of the car to be captured to with respect to other areas of the car . Freedman further discloses electronic communication. Therefore, the prior art addresses the current claim limitations.



**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/R. L. P./

Examiner, Art Unit 3626

/C. Luke Gilligan/

Supervisory Patent Examiner, Art Unit 3626

Conferees:

/C. G./

Luke Gilligan

Supervisory Patent Examiner, Art Unit 3626

Vincent Millin /vm/

Appeals Practice Specialist

